

Message Text

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PAGE 01 STATE 047455

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ORIGIN ARA-10

INFO OCT-01 ISO-00 L-03 OES-03 DOTE-00 CEQ-01 SAB-01 INT-05

EB-07 CIAE-00 INR-07 NSAE-00 /038 R

DRAFTED BY ARA/ECP:WRFALKNER;BWL

APPROVED BY ARA/ECP:SHROGERS

L/ARA:GCHESTER

L/OES:JBAILLEY

ARA/NC:DCOX

ARA/PAN/JBECKER

DOT:EREIS

OES/ENP/EN:LGRANT

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R 270129Z FEB 76

FM SECSTATE WASHDC

TO AMEMBASSY BOGOTA

INFO AMEMBASSY PANAMA

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E.O. 11652: N/A

TAGS: ETRN, "O

SUBJECT: DARIEN GAP HIGHWAY INJUNCTION

REF: BOGOTA 245

1. DEPARTMENT REGRETS DELAY IN RESPONDING TO REFTEL.

2. THE FOLLOWING SCENARIO OUTLINES PROCEDURES FOR
CLEARING AN ENVIRONMENTAL IMPACT STATEMENT (EIS). AT
THE OUTSET, HOWEVER, WE MUST EMPHASIZE THAT THE TIMETABLE
REFLECTS OPTIMAL CONDITIONS--ACTUAL EXPERIENCE COULD
DIFFER SIGNIFICANTLY DUE TO SEVERAL FACTORS, THE MOST
IMPORTANT OF WHICH ARE THE COMPLETENESS OF THE EIS, ITS
ACCEPTANCE BY INTERESTED PARTIES, AND WHETHER FURTHER
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PAGE 02 STATE 047455

LEGAL ACTION RESULTS.

3. THE COUNCIL ON ENVIRONMENTAL QUALITY RECOMMENDS TO THE MAXIMUM EXTENT PRACTICABLE THAT NO ADMINISTRATIVE ACTION SUBJECT TO THE EIS REQUIREMENT OF THE NATIONAL ENVIRONMENTAL ACT SHOULD BE TAKEN SOONER THAN 90 DAYS AFTER A DRAFT EIS HAS BEEN CIRCULATED FOR COMMENT, FURNISHED TO THE COUNCIL AND MADE AVAILABLE TO THE PUBLIC. AN APPROXIMATE SCHEDULE FOLLOWS. THE DECEMBER 1974

ENVIRONMENTAL IMPACT ASSESSMENT PREPARED BY THE FEDERAL HIGHWAY ADMINISTRATION (DOT/FHA) IS BEING REVISED AND UPDATED BY DOT/FHA AND THE BATELLE INSTITUTE TO BECOME A DRAFT EIS, WITH A MARCH 15 PUBLICATION TARGET DATE. A 45 DAY REVIEW PERIOD FOLLOWS (MARCH 15) PUBLICATION, WITH ANOTHER 15 DAYS FOR ANY NECESSARY REVISION BEFORE DOT/FHA ISSUES THE FINAL EIS ON OR ABOUT MAY 15. DURING THE REVIEW PERIOD PUBLIC HEARINGS MAY BE HELD AND THE DRAFT MUST BE CIRCULATED TO ANY INTERESTED PARTIES FOR THEIR COMMENTS. THESE COMMENTS MAY BE INCORPORATED IN THE FINAL VERSION. FOLLOWING DOT/FHA APPROVAL, THE FINAL EIS WILL BE PUBLISHED AND GIVEN TO THE COUNCIL ON ENVIRONMENTAL QUALITY, WHICH WILL HOLD THE DOCUMENT FOR 30 DAYS.

4. IF NO COURT ACTION IS TAKEN AGAINST DOT/FHA DURING THE PROCESSING OF THE DRAFT EIS AND DURING THE 30 DAYS THE FINAL VERSION IS AT CEQ, IT IS DOT'S VIEW THAT THE TERMS OF THE INJUNCTION WILL BE SATISFIED, AND THAT WORK MAY PROCEED IN COLOMBIA AND RESUME ON THE PANAMANIAN PORTION STILL UNDER THE INJUNCTION WITHOUT FURTHER COURT ACTION. DOT ESTIMATES THAT WORK COULD RECOMMENCE ON OR ABOUT JUNE 15, PRESUMING NO FURTHER LEGAL PROBLEMS.

5. DEPARTMENT WISHES EMBASSY TO NOTE, HOWEVER, THAT POSSIBILITY STILL EXISTS PLAINTIFFS IN THIS CASE WILL CHALLENGE SUFFICIENCY OF DRAFT EIS IN AN ATTEMPT TO DELAY CONSTRUCTION FURTHER, PARTICULARLY ON POINT OF CRITERIA FOR JUDGING AFTOSA CONTROL AND EFFECTIVENESS OF CONTROL MEASURES PRESENTLY IN PLACE. IF CURRENTLY AVAILABLE DATA INSUFFICIENT IN PLAINTIFF'S VIEW ON AFTOSA ISSUE, LIMITED OFFICIAL USE

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PAGE 03 STATE 047455

SUPPLEMENTAL EIS MAY BE DEMANDED ALSO. EITHER SITUATION COULD RESULT IN FURTHER DELAYS. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CONSTRUCTION, ENVIRONMENT, POLICIES, DARIEN GAP HIGHWAY PROJECT, COURT DECISIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 27 FEB 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE047455
Document Source: CORE
Document Unique ID: 00
Drafter: WRFALKNER;BWL
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760074-0427
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976024/aaaaacxa.tel
Line Count: 109
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 BOGOTA 245
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 14 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 JUL 2004 by MartinML>; APPROVED <26 OCT 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DARIEN GAP HIGHWAY INJUNCTION
TAGS: ETRN, CO
To: BOGOTA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006